

Draft Economic Impact Analysis

Proposal to Establish Fee for Registration of Certain General Licensees Effective January 31, 2004 WAC 246-254-090(4)

Introduction

The Department of Health regulates possession and use of radioactive materials in Washington state through a registration or licensing and inspection program. All program costs are borne by the licensees or registrants through license or registration fees. The department currently registers or licenses approximately 400 specific radioactive materials licensees and maintains limited information on approximately 300 general licensees throughout Washington State. Under new federal regulations, the department is now required to institute a more rigorous registration program for certain of the general licensees. This entails an added program cost which must be recovered in a registration fee. License and registration fees, which are collected from a wide variety of licensees, must equitably recover program costs and be set at a level to ensure the adequacy of the department's efforts to protect the health and safety of Washington residents. This document analyzes the Office of Radiation Protection's proposal to establish a fee for registration charged to certain general radioactive materials licensees.

Necessity of the proposed fee

The United States Nuclear Regulatory Commission (NRC) established a registration program and fee for certain generally licensed radioactive devices in 65 FR 79162. The state of Washington, having entered into a formal agreement with the NRC's predecessor in 1966, is required to maintain an adequate program and compatible regulations with those of the federal government. The Department of Health has been designated as the state's Radiation Control Agency and is charged with carrying out the formal commitment. The technical provisions of the new registration rule are the subject of current rule-making and do not require economic impact analysis since they are being adopted without material change from the federal requirement. However, a new fee is necessary to meet the costs of operating the new registration program. This economic impact analysis is focused on the proposed fee.

The legislature has mandated that program fees be of sufficient magnitude to adequately protect the health and safety of Washington's residents. The Department of Health is required under RCW 43.70.110 to charge fees to licensees for obtaining a license. The fee must be based on the cost to the department of regulating the activity and includes the cost of inspections. The department is additionally bound by RCW 43.70.250 to set fees

at a level sufficient to defray the costs, including overhead costs, of administering the program.

Magnitude of the proposed fee

The proposed registration fee is expected to cover the costs for obtaining and maintaining information associated with the devices subject to the registration requirement, the costs of processing and reviewing the registrations, and the costs for inspections and follow-up efforts expected to be made as a result of the registration process identifying noncompliance with existing regulations. The fee would be based on the average cost of the program for each of the general licensees registering devices.

Table 1 provides information on the anticipated number of general licensee registrations, inspection of non-reporting registrants, administration costs, and department overhead.

Table 1. Anticipated Annual Program Costs

Program Item	Staff	Hours	Rate	TOTAL
Send Annual Forms	Sec Sr.	8	14.86 \$	118.88
Review & Input				
Data	RHP1	30	24.84 \$	745.20
Follow-up effort	RHP1	60	24.84 \$	1,490.40
Inspection (1 in 4)	RHP3	160	28.82 \$	4,611.20
Supervisory Review	RHP4	20	31.79 \$	635.80
Administration	WMS2	10	33.41 \$	334.10
Sub-total Salaries				\$ 7,935.58
Benefits	26%		0.26 \$	2,063.25
Subtotal				\$ 9,998.83
Department Indirect	21.2%		0.212 \$	2,119.75
Subtotal				\$ 12,118.58
Printing and Postage			\$	400.00
Travel costs	20 inspections		\$175 \$	3,500.00
Grand Total				\$ 16,018.58
	80 registrants (no SBD)		\$	200.23
Average per GL	Small Business Discount		\$	215.00

There are currently 94 general licensees in the database with devices that potentially require registration. Based on previous experience when implementing new fees, some general licensees will divest themselves of the device(s) to avoid the fee. Therefore, the assumption is that only 80 general licensees will be registered. The estimated time to

prepare and send the annual forms for registration and fee collection is eight hours. This work will be done by a secretary senior position. Once the forms and fees are returned, the fees are forwarded to the Revenue Office (if needed) and the data from the forms is reviewed for completeness, and cross-checked against the database. The database is updated as necessary and any discrepancies or missing information is slated for follow-up. The review and updating of the database is expected to take about 30 hours of a Radiation Health Physicist 1's time.

Follow-up of missing or suspect information requires tracking down general licensees by phone and talking to the responsible individual. This can be time-consuming if the individual is no longer with the general licensee, or if the general licensee has moved. This is expected to take approximately 60 hours by a Radiation Health Physicist 1. Actual "on the ground" inspection of the general licensee's facility is anticipated for one in four general licensees. The inspection will determine whether a device has been improperly transferred or lost, and whether it remains properly labeled and in safe condition. A Radiation Health Physicist 3 will be assigned to do these inspections and 160 hours are anticipated. Since general licensees are found through the state (as are specific licensees), the average cost of conducting inspections of specific licensees is used to estimate the travel costs for required inspections. For fiscal year 2003, the Radioactive Materials Section travel budget was \$52,072 and 300 inspections and other on-site visits were completed. This is an average travel cost of \$175 per inspection.

Supervisory review of work completed and overall administrative functions are estimated to require 20 hours of the Radiation Health Physicist 4 and 10 hours of the Washington Management Service 2 positions. Currently, the employee fringe benefits are 26% of salary for an anticipated program salary plus benefits cost of approximately \$10,000. The department overhead rate is 21.2%, adding approximately \$2,120 to the program costs.

Goods and services, including printing, postage, and phone costs will add approximately \$400. Finally, travel for inspections at one fourth (25) of the general licensees, will add \$3,500 for a grand total of \$16,020 for the anticipated registration program.

One additional factor to be applied is the effect of the "small business discount" (see later section). A 25% discount is allowed for qualifying small businesses. This is a standard practice for specific licensees in the Radioactive Materials Section. Based on the number of entities taking the small business discount among specific licensees (approximately 25%), the "base fee" needs to be adjusted upward to compensate for the lost revenue. With 75% paying the base fee and 25% paying the reduced fee (75% of the base fee), the base fee needs to be \$215 per year to generate the \$16,000 needed to cover program costs.

Impact of the proposed fee

The proposed fee is \$215 per year per general license registration. In keeping with the NRC's rule, an organization that uses generally licensed devices at numerous locations is

considered a separate general licensee at each location. However, different facilities at the same complex or campus are not considered separate locations. In the case of portable devices that are routinely used at multiple field sites, there is one general licensee for each primary place of storage, not for each place of use. Thus, an organization must complete more than one registration if it possesses devices subject to registration at multiple distinct locations. The forthcoming DOH registration for general licensees will be the equivalent to NRC's registration program. Indeed, if the DOH did not have a regulatory program for radioactive materials, these same general licensees would alternatively be required to obtain a license or registration from the NRC. Table 2 compares the proposed fee for similar Washington license or registration categories as well as the equivalent fee that would be required under NRC rules.

Table 2. Comparison of License Fees for Devices or General License Registrations.

Fee Category	Description of Licensee	2003 Fee	License Type
39	Registration as an in-vitro testing lab	\$ 72	General
70 (new)	Proposed registration for general licensed devices	\$ 215	General
67	Possession of static elimination devices not covered by a general license	\$ 350	Specific
NRC's "3Q"	Device generally licensed under 10 CFR 31	\$ 450	General
24	Possession of special nuclear material as pacemakers or depleted uranium as shielding	\$ 475	Specific
35	Possession of gas chromatograph units containing radioactive material	\$ 540	Specific
32	Medical or veterinary possession of a sealed source for diagnostic use	\$ 765	Specific
31	Possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices	\$ 785	Specific
34	Possession of any nonportable sealed source (a fixed gauge), including special nuclear material and excluding radioactive material used in gas chromatograph	\$ 860	Specific

Fee Modification for small businesses

Almost one quarter of the facilities regulated by the Radioactive Materials Program are considered small businesses as defined by the Regulatory Fairness Act (chapter 19.85 RCW). A similar percentage is anticipated among the general licensees subject to the proposed new registration fee. In keeping with current practice for specific licensees, the Radioactive Materials Section intends to offer a discount of 25 percent off the general licensee registration fee for qualified small businesses. However, to fully support the cost of the registration program, the amount of the fee needs to be adjusted such that the total anticipated revenue remains adequate to cover the program costs in this area. With no discount, the average cost of the general license registration program for the expected 80 registrants is approximately \$200 per year. When the cost of the “small business discount” is factored in, the annual cost is \$215 per registrant. The fee for qualified small businesses would be \$161 per year.

Conclusion

The Radioactive Materials Program is entirely supported by the fees paid by regulated entities. The legislature has mandated that these fees be of sufficient magnitude to adequately protect the health and safety of Washington’s residents. The proposal being offered by the Office of Radiation Protection has been carefully tailored to meet its legislative mandate to protect public health while simultaneously mitigating the potential fiscal impact on small businesses. A fee that did not support the actual program costs could compromise public health and safety because funds would be inadequate to carry out essential activities such as facility inspections, safety reviews of licensee device information, and responses to incidents and to licensee and citizen concerns.